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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,600	07/26/2001	Chris A. Barton	NAIIP020/01.139.01	8707
28875	7590	09/21/2007		
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			EXAMINER PYZOCHA, MICHAEL J	
			ART UNIT 2137	PAPER NUMBER
			MAIL DATE 09/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/916,600

Applicant(s)

BARTON ET AL.

Examiner

Michael Pyzocha

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 05 October 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER

Continuation of 10. Other (including any explanation in support of the above items): Amendment filed April 28, 2005 included the cancellation of claim 13, the Amendment after final was denied entry by the Examiner in an Adivosry Action dated May 15, 2005.

The Status of Claims section identifies claim 13 as cancelled but it is pending and under rejection

In the Grounds of rejection to be reviewed on appeal section, Issue #2 lists claims 1-40 as rejected under 35 USC 103(a), however, claims 3, 8, 9, 19, 24, and 25 were cancelled in the Amendment dated January 28, 2005.

The argument section appellant incorporates original claim 3 into part d above and original claims 8 and 9; all identified claims which have been cancelled.

The Claims Appendix lists claim 13 as cancelled, however as noted above it remains pending.